

Docket No.: 58799-046



PATENT

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 20277
	:	
Osamu KAWAMAE, et al.	:	Confirmation Number: 1460
	:	
Application No.: 09/935,657	:	Group Art Unit: 2653
	:	
Filed: August 24, 2001	:	Examiner: P. W. Huber
	:	

For: DATA RECORDING METHOD, DATA REPRODUCING METHOD, DATA  
RECORDING APPARATUS AND DATA REPRODUCING APPARATUS

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Restriction  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Noting the Office Action of September 23, 2004 wherein restriction has been required, Applicants hereby provisionally elect Group I (claims 1-37) for prosecution in the above-identified application.

**RESPONSE TO RESTRICTION REQUIREMENT**

The restriction requirement is traversed on the ground that the stated reasoning is based on a mis-characterization of the claims. The Action would split the pending claims into four groups relating to four distinct inventions, identified as follows:

- I. Claims 1-37 drawn to a data recording method, data reproducing method, a data recording apparatus, and a data reproducing apparatus;
- II. Claims 38, 29, 41 and 42 drawn to a data recording method and a data recording apparatus;

III. Claim 40 drawn to a data recording apparatus; and

IV. Claim 43 drawn to a data reproducing apparatus.

The allegation of distinctness, however, asserts that these four different inventions are related as sub-combinations disclosed as usable together. As noted above, Group I includes claims directed to recording data and claims directed to reproducing data. The other Groups include claims directed to recording data and claims directed to reproducing data. Rather than specifying sub-combinations usable together, these different groups of claims emphasize different disclosed features and as such differ in scope. In view of the inaccurate characterizations of the different groups of claims, the restriction requirement is erroneous and improper, and the requirement should be withdrawn.

Applicants respectfully request prompt favorable examination of the claims in this application, preferably including all pending claims.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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